



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,424	04/22/2005	Kensaku Fujii	0080-0234PUS1	3734

2292 7590 09/29/2008  
BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH, VA 22040-0747

EXAMINER
----------

MAKI, STEVEN D

ART UNIT	PAPER NUMBER
----------	--------------

1791

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

09/29/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Advisory Action Attachment

new issues

The new issues include (1) in claim 1, changing "inscribed on or included in" to --circumscribed by-- and (2) in claim 16, changing "claim 15" to --claim 12--.

With respect to "inscribed on or included in", applicant argues that the proposed amendment to claim 12 clarifies the relationship of the contours of the first and second steps of the multi-step hole and obviates any ambiguity that the examiner may have discerned in the claim. Claim 12 is not ambiguous. Claim 12 was not rejected under 35 USC 112 second paragraph. Applicant is confusing ambiguity with breadth - claim 12 is merely broad.

With respect to claim 16, applicant comments that the proposed amendment corrects the dependency of the claim. This comment is not understood. The dependency of claim 16 is already correct. The proposed change appears to create a minor antecedent basis problem with respect to "rounded shape".

partial translation for JP 59-025684

The partial translation of Japan 59-025684 filed on 9-10-08 by applicant has been considered by the examiner and has been listed on a PTO 892.

remarks

Applicant argues that Japan 684 explicitly requires "indicia" for providing an indication of abrasion degree or tread wear (page 4 of after final filed 9-10-08). Applicant is incorrect. The term "indicia" is nowhere to be found in the partial translation of Japan 684 provided by applicant. None of the figures of Japan 684 illustrate "indicia".

Applicant alleges that Figure 2(d) of Japan 684 shows indicia "... in the form of numbers 1, 2, 3 disposed in a sidewall of a recess in the tread T, which each higher number indicating a greater degrees of tread wear" (page 5 of after final filed 9-10-08). Applicant is incorrect. Figure 2(d) of Japan 684 fails to illustrate numbers 1, 2 and 3 disposed in a sidewall of a recess.

Applicant argues that Figure 3 of Soviet Union shows a wear indicator, as a projection having stepped sides, being disposed in a hole. Examiner comments that the abstract of Soviet Union states "... the wear indicator has the form of a stepped pyramid, which can be formed by shaping one of the tread projections, or can have the form of an opening in one of these projections" (emphasis added). Page 3 of the translation of Soviet Union states: "... the steps of the indicator pyramid can be formed by the side surfaces of the individual blocks or by recesses in the individual blocks of the tread" (emphasis added). Claim 3 of Soviet Union states: "characterized by the fact that the stepped pyramid of the remaining tread wear indicator is formed by recesses in individual blocks of the tread" (emphasis added).

Applicant argues that Figure 3 of Soviet Union illustrates a projection. Applicant further argues that Figure 3 of Soviet Union fails to illustrate a void. Applicant is incorrect. Figure 3 of Soviet Union illustrates a stepped recess in a lug (a type of block). The stepped recess is illustrated using a cutaway view of a portion of the lug. One of ordinary skill in the art would readily understand from Soviet Union that (1) when the lug tire tread of Figure 3 is new, a small diameter circular recess is visible and (2) as the tire tread wears, the diameter of the recess in the lug (block) of Figure 3 increases to a

Art Unit: 1791

larger diameter and then to a largest diameter. Contrary to applicant's argument, Figure 3 of Soviet Union fails to illustrate a stepped projection in an opening in a tread. This construction proffered by applicant would result in a *thin rubber wall* between "the inner surface of the opening" and "the outer surface of the lug". Since a thin rubber wall in a lug tire tread would be easily torn and thereby highly undesirable, applicant's proffered construction of Figure 3 illustrating a stepped projection in an opening in a lug is considered to be unreasonable. Examiner maintains that Figure 3 of Soviet Union illustrates a stepped opening in a lug. The examiner's interpretation of Figure 3 of Soviet Union is supported by the written disclosure of Soviet Union. Applicant's interpretation of Figure 3 of Soviet Union, on the other hand, is not supported by the written disclosure of Soviet Union.

With respect to step shape, one of ordinary skill in the art would have found the different step shapes of a wear indicator as disclosed by Soviet Union to be applicable to the steps of the wear indicator of Japan 684 since the steps of Japan 684 and Soviet Union are for indicating tread wear.

Applicant argues that the tread wear indicators of Japan 684 and Soviet Union are fundamentally different in structure and function. Examiner disagrees. The tread wear indicators of Japan 684 and Soviet Union comprise the same structure (steps) and have the same function (allowing visual indication of tire tread wear).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven D. Maki/  
Primary Examiner, Art Unit 1791

Steven D. Maki  
September 22, 2008